

From St Kitts to Agadir
Reform of the International Whaling
Commission from 2006 - 2010

By

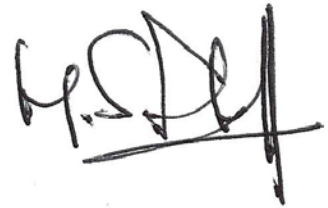
Mike ILIFF BE, BSc.

University of Tasmania

A thesis submitted in fulfilment of the requirements for the degree of
Doctor of Philosophy at the Institute of Marine and Antarctic Studies,
University of Tasmania (October 2012).

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Michael ILIFF BE, BSc.

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Declaration

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Michael ILIFF BE. BSc.

29th October 2012

Abstract

The 2006 annual meeting of the International Whaling Commission in St Kitts was notable for two interconnected reasons: first, the failure of discussion on the Revised Management Scheme, the introduction of which, it had been hoped by the pro-whaling faction, would lead to a lifting of the moratorium and a resumption of some form of commercial whaling; and secondly, the passing of the St Kitts and Nevis Declaration. In reaffirming the true purpose of the International Convention for the Regulation of Whaling as being a convention for the sustainable hunting of whales, passing of the Declaration was a major win for the pro-whaling side.

Following that meeting, the incoming chairman of the Commission, Bill Hogarth, launched a program to seek a way forward for the Commission to overcome the division and bitterness between the pro and anti-whaling groups and thereby improve the effectiveness of the Commission as a whole. This thesis follows the debate within the International Whaling Commission between 2006 and 2010, and using primary official sources and first hand observations, examines those issues affecting the future of the IWC. It investigates and comments on the objectives and agendas of both pro- and anti-whaling groups within the IWC, together with the non-government organisations involved in the whaling issue, and suggests courses of action for all parties.

Individual chapters address issues such as the normalization of the International Whaling Commission, the modernisation of the International Convention for the Regulation of Whaling, the Hogarth Initiatives and other initiatives for improving the effectiveness of the regime. The thesis investigates two possible outcomes of the current

initiatives: a continuation of the unsatisfactory *status quo*, and a radical replacement of the current regime with an equally unsatisfactory situation, including separate conventions for pro and anti-whaling nations. The thesis concludes that an alternative falling between these two extremes is both possible and achievable, and explores ways in which this reform might be accomplished in the near future.

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Chapter 1 Introduction

At its 58th Annual Meeting in St Kitts and Nevis in June 2006, the International Whaling Commission (IWC) was in much the same condition as many of the whales it was responsible for protecting: harpooned, mortally wounded, but refusing to die. Founded in 1946 under the International Convention for the Regulation of Whaling (ICRW) fundamentally to “provide for the orderly development of the whaling industry”, the Commission had spent its first thirty-six years until 1982 presiding over the economic extinction of all but one of the ten species of the great whales on which the whaling industry depended. It was then hijacked by an influx of new members which, within four years effectively destroyed what was left of the whaling industry by creating a moratorium on commercial whaling, and for the next thirty years was rendered ineffective due to internal conflict between pro and anti-whaling factions. The four years between 2006 and 2010 saw a concerted effort by the chairman to breathe life back into the Commission; the results of his efforts, so far at least, are still to be seen.

The St Kitts meeting saw the Commission’s polarisation at its worst; almost equal numbers on each side of the debate, its most recent initiative for resolution of the differences between them in tatters, and the possibility of a break-up imminent. Dr Bill Hogarth of the USA, elected chairman of the Commission at that meeting, launched a new initiative to restore the credibility and authority of the IWC. His term as chairman concluded in 2009, but the results of his initiative would not be known until the 62nd annual meeting of the Commission in Agadir, Morocco in 2010. This thesis tracks the proceedings of the IWC and its major issues, influences and

influencers between 2006 and 2010, commenting on their effectiveness and making suggestions for a way forward.

1.1 A Brief History of the Whaling Industry

Large-scale hunting of whales began with the Basques of France and Spain in the Bay of Biscay in the eleventh century. They worked from sailing ships and hunted from open rowing boats with hand-thrown harpoons, taking only the slow-swimming right whales. By the sixteenth century, there were too few right whales left in the Bay of Biscay to sustain the industry and the whalers spread northward, and joined by fleets from Britain, the Netherlands and later, the United States by the nineteenth century, operated in most of the world's oceans, leaving depleted populations of right whales in their wake (Francis 1990:78).

The faster-swimming rorqual whales, blue, fin, sei, Bryde's minke and humpback escaped the carnage until the advent of steam-driven ships and the invention of the cannon-fired harpoon with an explosive head in the mid-nineteenth century. The combination allowed the taking of the largest and fastest whales in the most remote and inaccessible location, the waters around Antarctica. Early in the twentieth century, development of ship-based processing factories served by specialised catcher vessels allowed greater efficiencies in whale harvesting, helping to satisfy the rapidly escalating demand for whale oil as it found new uses in the manufacture of soap, margarine and glycerine.

Antarctic whaling commenced in 1903, first targeting humpbacks which were hunted to commercial extinction by 1918 (Jackson 1978: 276), followed by blue, fin, sei and finally the smaller minkes. The 1937/38 season was the zenith of Antarctic whaling,

when almost 55,000 whales were taken (Tønnessen and Johnsen 1982: 330). World War II provided something of a respite for whales, with reduced catches as whaling vessels were pressed into wartime service, but post-war shortages of whale oil and meat meant a rapid resumption when hostilities ceased. Britain, Norway, the Netherlands, Japan and the Soviet Union had rebuilt their fleets by 1949 and in spite of attempts to regulate whaling (as described in the next section), unsustainable rates of harvesting resumed. In the 1960-61 season, the second-highest annual catch in history was recorded (Birnie 1985). Declining prices for whale oil as substitutes were found, and declining numbers of whales forced Britain, Norway and the Netherlands to abandon Antarctic whaling in the sixties, leaving only Japan and the Soviet Union carrying out pelagic whaling, with some minor coastal whaling stations operating along whale migration routes. Quotas and protection of individual species were applied by the International Whaling Commission following its formation in 1946, but they failed to prevent the virtual extinction of population after population through the post-war period until 1982 when a blanket moratorium was declared on commercial whaling (Heazle 2006: 152).

Since then, limited whaling by Norway, Japan, Iceland and a number of small whaling operations classified as Aboriginal Subsistence Whaling (ASW) continue to this day; a total of approximately 2,000 whales, mostly minke, being killed each year (IWC 2008j).

1.2 Regulation of Whaling

It was obvious by the early twentieth century that whale populations world-wide were severely depleted and the first moves to conserve whales came at the eighth

International Zoological Congress in 1910 and taken further by the International Council for the Exploration of the Sea (ICES) in 1927 which suggested some specific measures for regulation of whaling (Birnie 1985). In 1931, the League of Nations in cooperation with ICES, drew up the Geneva Convention for the Regulation of Whaling as a response to the twin problems of declining whale numbers and low market prices for whale oil. The Convention was signed by twenty six countries, but did not include Germany, Japan and the Soviet Union, which at the time together accounted for over thirty per cent of the total harvest (Birnie 1985). Subsequent meetings were held in London in 1937 and 1938 where Agreements were made with the aim of reducing the catch, but during the decade of the 1930s there was a doubling of the overall harvest.

Renewed interest in whaling after the Second World War prompted the United States to convene a meeting of whaling states in Washington D.C. to establish guidelines for future regulation of the hunt. This meeting drew up the International Convention for the Regulation of Whaling which was signed by the fifteen major whaling countries in 1946. The original signatories were: Argentina, Australia, Brazil, Canada, Chile, Denmark, France, the Netherlands, New Zealand, Norway, Peru, South Africa, USSR, UK and USA. Birnie (1985) provides a detailed description of the process of establishment of the ICRW and that information will not be repeated here. The Convention was heavily based on the earlier Geneva Convention and London Agreements, and consisted of the major parts set out in detail below.

The failure of the Convention and of the Commission established to implement it has been well analysed and documented by numerous writers, of which Birnie (1985) and Heazle (2006) provide comprehensive coverage. For this thesis, it is sufficient

to record that from 1946 to 1986, the IWC failed to prevent the unsustainable harvest of all species of great whales, and it was only the growing environmental movement and its influence exerted on governments world-wide, commencing in the 1960s, which eventually forced the IWC to adopt a moratorium on commercial whaling, taking effect in 1985/86 (McTaggart 2001).

1.3 The International Convention for the Regulation of Whaling

The wording of the Convention has had, and continues to have, a major effect on the conduct and effectiveness of the IWC and mention will be made of these throughout the thesis. For that reason, the following section contains an examination of those articles of the Convention to which reference will be made as the thesis progresses.

Preamble

This section set out the background and purpose of the Convention. Considering that its primary function at the time of writing was to maintain the price of whale oil, it is remarkable for its appreciation of many conservation issues which were not widely recognized at the time, and some of which have been ignored by whalers ever since. For example, the Preamble commences by “Recognising the interests of the nations of the world in safeguarding for future generations the great natural resources represented by the whale stocks”. This broad statement is notable for its recognition that all nations, as distinct from the fifteen whaling nations represented at the meeting, are interested in whales. Furthermore, it also implies that the whales themselves are a natural resource, as distinct from the oil which can be produced from them.

The Preamble goes on to note that the “history of whaling had seen overfishing of one area after another and of one species after another”, but then reveals its real interests in the next three sections, noting that:

- proper regulation will ensure that “increases in the size of whale stocks will permit increases in the numbers of whales which may be captured without endangering those natural resources”;
- “it is in the common interest to achieve the optimum level of whale stocks as rapidly as possible without causing widespread economic and nutritional distress”; and
- “whaling operations should be confined to those species best able to sustain exploitation in order to give an interval for recovery to certain species of whales now depleted in numbers”.

The final clause of the Preamble, which is still widely quoted as a summary of the purpose of the Convention, states, in part: “Having decided to conclude a convention to provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry”. This wording is used today by pro-whalers to justify the legal validity of sustainable whaling, and by anti-whalers to justify both the moratorium on commercial whaling and inclusion of whale watching as a legitimate part of the “whaling industry”.

Article I

This article introduces the Schedule to the Convention and outlines the coverage of the Convention as applying to factory ships, land stations and whale catchers under

the jurisdiction of Contracting Governments.

Article II

This article includes the major definitions used in the Convention. The definition of “Contracting Government” refers only to “any Government which has deposited an instrument of ratification or has given notice of adherence to this Convention”. Neither this, nor *Article X* (Ratification and future adherence) place any other conditions on adherence, allowing the accession of governments with no direct interest or involvement in whales or whaling. This has been the means through which non-whaling members later came to dominate the Commission.

Article III

This article establishes the International Whaling Commission and sets up the general rules for its operation. One provision of this article which affects issues discussed in the following chapters is Paragraph 2 which requires that “decisions of the Commission shall be taken by a simple majority...except that a three-fourths majority of those members voting shall be required for action in pursuance of *Article V* [the Schedule]”. The requirement for a three-quarters majority means that Schedule amendments are difficult to achieve if there is significant difference of opinion on those amendments.

Article IV

This article establishes the information gathering, analysing, statistics recording and disseminating functions of the Commission. The ramifications of this article include the claims by both sides of the current debate that analysis and statistics produced by

the Scientific Committee of the IWC are being ignored or misused.

Article V

This article establishes the conditions for the Schedule to the Convention which covers the general conditions for whaling operations, its scope and the rules for making amendments. Of particular importance in this article are the specific topics that can be covered by the Schedule, and thereby amended by a three-fourths majority of voting members. The topics critical to this thesis are:

Paragraph 1: Fixing (a) protected and unprotected species, (c) designation of sanctuary areas and (e) time, methods and intensity of whaling (including the maximum catch of whales to be taken in any one season). This paragraph enabled the establishment of the moratorium on commercial whaling in 1982 by setting catch limits of all species to zero.

Paragraph 2: Requirement that amendments (a) shall provide for the conservation, development and optimum utilization of the whale resources, (b) shall be based on scientific findings, and (d) shall take into consideration the interests of the consumers of whale products and the whaling industry. The belief that the establishment of a blanket moratorium on the killing of all species was not based on scientific findings has led to a cogent argument that the moratorium itself is not legitimate under this article.

Paragraph 3: Outline of an objection procedure for Schedule amendments under which “the amendment...shall not become effective with respect to any Government which has so objected until the objection is withdrawn”. This is the clause under

which Norway and Iceland are legitimately able to carry out commercial whaling regardless of the general moratorium on commercial whaling.

Article VI

This article gives the Commission authority to make recommendations to Contracting Governments regarding whales, whaling and the Convention. Recommendations under this article do not create any legal obligation on Contracting Governments, but are used to express dissatisfaction with action of certain member governments.

Article VII

This article imposes obligations on Contracting Governments to provide statistics as prescribed by the Commission.

Article VIII

Paragraph 1 of this article establishes the right for Contracting Governments to “grant to any of its nationals, a special permit authorising that national to kill, take and treat whales for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the Contracting Government thinks fit, and the killing, taking and treating of whales in accordance with the provisions of this article shall be exempt from the operation of this Convention. Each Contracting Government shall report at once to the Commission all such authorisations which it has granted”. This has facilitated what is commonly referred to as “special permit” or “scientific” whaling.

Paragraph 2 states that “any whales taken under these special permits shall so far as practicable be processed and the proceeds shall be dealt with in accordance with directions issued by the Government by which the permit was granted”. Under this paragraph, pro-whaling countries argue that the phrase ‘be processed’ can permit (even mandate) whale meat to be processed to food grade and sold on wholesale markets.

Paragraph 3 requires that “Each Contracting Government shall transmit ...scientific information including the results of research conducted pursuant to paragraph 1”. It is useful to note here that Japan’s scientific research whaling program is often referred to (by anti-whalers and the press) as “exploiting a loophole in the Convention”, or “commercial whaling in disguise” but it can be seen that this clause is quite specific, and that scientific research whaling under special permit granted by the Japanese Government is legitimate under the Convention, in so far as permits are granted, whale meat is processed, and scientific information is transmitted to the IWC.

Article IX

This article requires Contracting Governments to take action against persons or vessels under its jurisdiction for infractions against the Convention.

Article X

This article sets the conditions for ratification of the Convention and for future adherence.

Article XI

This article sets conditions for withdrawal from the Convention. Of significance, and as will be discussed in detail later, is the requirement that “any Contracting Government may withdraw from this Convention on June thirtieth of any year by giving notice on or before January first of the same year”.

Schedule

The Schedule to the Convention contains all of the current regulations and procedures established by the IWC under its mandate from the Convention. It is the Schedule which establishes the Indian Ocean Sanctuary and the Southern Ocean Sanctuary under paragraphs 7 (a) and (b) respectively. It also establishes the moratorium on commercial whaling under paragraph 10 (e), which reads “Notwithstanding the other provisions of paragraph 10, catch limits for the killing for commercial purposes of whales from all stocks for the 1986 coastal and the 1985/86 pelagic seasons and thereafter shall be zero. This provision will be kept under review, based upon the best scientific advice, and by 1990 at the latest the Commission will undertake a comprehensive assessment of the effects of this decision on whale stocks and consider modification of this provision and the establishment of other catch limits”.

As noted above, it is the requirement for a three-fourths majority to amend provisions of the Schedule which has had a major effect on discussions on this clause within the Commission. This topic is widely discussed in the various chapters of this thesis.

Established as it was in 1946, based on the Geneva Convention of 1931 and the London Agreements of 1937 and 1938, the ICRW lacks many of the provisions of more modern international environmental treaties such as biodiversity considerations, conservation principles, habitat protection and dispute settlement procedures. Another major shortcoming of the Convention is the lack of any provision to change or update any of its articles. This omission has caused considerable frustration, particularly among anti-whaling governments who wish to transform the Convention from a whaling convention into a whale conservation convention.

1.4 The International Whaling Commission

Between its first meeting in 1948 and its twenty-fourth in 1971, the IWC concerned itself mainly with ever diminishing whale stocks, declining whale oil prices, and initially increasing, but after 1961, diminishing catches. It proved largely impotent to achieve any positive impact on any of these factors, despite continually amending the Schedule to limit, and then ban catches of species where numbers had obviously reached critically low levels.

Between 1963 and 1968, due to reduced catches and falling profitability for whale oil, the British, Dutch and Norwegians abandoned Southern Ocean whaling, leaving it to Japan which was profiting from the sale of whale meat in addition to oil, and the USSR where the industry was state owned, and as has subsequently been revealed, was grossly exceeding the quotas imposed by the IWC. Membership of the IWC in 1971 had dropped to eleven; Brazil, the Netherlands, New Zealand and Peru having withdrawn due to the cessation of their national whaling operations.

In 1972 however, due mainly to pressure from the growing environmental movement in the USA and Europe, the United Nations Conference on the Human Environment chose the whale as a symbol of the destruction of the Earth's natural capital, and passed a resolution calling for a ten year moratorium on the harvesting of whales (Friedheim 2001). A similar motion was put but lost at the IWC in its meeting the same year, but it was not until 1982, after continuing agitation and recruitment of new (predominantly anti-whaling) governments into the ICRW, lifting membership to thirty two, that a three fourths majority vote established Paragraph 10(e) of the Schedule, and with it, the moratorium on commercial whaling of all species. The full process of the introduction of the moratorium is discussed in great detail in Birnie (1985) and will not be reproduced here.

Suffice to say, 1982 marked a turning point for the IWC as it changed from an organisation overseeing, but certainly not managing, the whaling industry to one primarily concerned with the conservation of whales. Consistent with this change in focus, there was a significant change in membership. Recruitment of both pro- and anti-whaling members in an attempt by both sides to achieve and retain a three-fourths majority saw numbers increase to 88 by 2009, with a slight majority favouring anti-whaling. It must be noted here that the membership divide was not drawn strictly along pro- and anti-whaling lines; a group of middle-minded countries also existed and were active in the IWC but sometimes vacillating between the two stronger camps. This matter is dealt with in detail later.

Consistent with the intent of Paragraph 10(e) to “undertake a comprehensive assessment of the effects of [this] decision on whale stocks and consider modification of this provision and the establishment of other catch limits”, since

1982, the Scientific Committee of the IWC has undertaken ongoing stock assessments of many stocks, and has developed the Revised Management Procedure (RMP). The RMP is used to calculate allowable catch limits based on those assessments. To date, this process has not persuaded the IWC to establish any catch limits other than zero, even though some stocks appear to be capable of tolerating a sustainable harvest (Aron 2001: 105 -122). The period between 1982 and 2004 saw the IWC establish whale sanctuaries in both the Indian and Southern Oceans, further confirming the current function of the organisation as protectionist rather than conservationist.

The major issue for the IWC in the period under review was the ongoing utility of the ICRW and as a consequence, the role of the IWC itself. Because it contained no means by which it could be changed, the ICRW remained a convention on whaling, while the IWC was a Commission controlled by non- and anti-whalers. This situation led to significant conflict within the organisation, which was predominately played out at the Commission's annual meetings, but also increasingly in the Southern Ocean and in the world's media, due in part at least to frustration with the IWC.

In 2006, the 88 IWC member states, in respect of whaling policy at least, fell into a number of broad groupings. The first group comprised those whose nationals currently carried out whaling operations. Members were: Japan, which allowed research whaling under special permit; Norway, which carried out commercial whaling under the objection provision of the ICRW; Iceland, which carried out whaling under both the objection and special permit provisions; also the USA, Denmark (representing its external territories of Greenland and the Faeroes), Russia, and St Vincent and the Grenadines, all of which allowed certain indigenous

inhabitants catches under the Aboriginal Subsistence Whaling (ASW) provisions. A second group of states did not carry out whaling operations, but did support “sustainable use” of cetacean resources, claiming that this was the clear intention of the ICRW. Generally, these states were China and Korea, together with a number of small Caribbean, Oceania, South East Asian and West African countries. Together, these two groups, with the exception of the USA, which (in spite of the fact that some of its nationals are ASW whalers) remains anti-whaling, formed the pro-whaling group within the IWC. The anti-whaling group which believed that commercial whaling should be banned altogether consists generally of industrialised “Western” countries, USA, UK, Australia, New Zealand, South Africa, European Union countries, (except Denmark in respect of its external territories only), and the Latin American member countries. It should be noted at this point that a number of the members within this group, notably Sweden, took the view that commercial whaling could be acceptable under certain conditions including proven sustainability, and appropriate harvesting methods. Between 2006 and 2010, there was a slight majority of anti-whaling members, but not enough to create the three-quarters majority required for schedule amendments.

Decisions of the Commission in accordance with its mandate under the Convention are taken at annual meetings, usually held in June/July. Attendance at annual meetings is open to members, other selected inter-governmental organisations (IGOs) such as the World Conservation Union (IUCN) and North Atlantic Marine Mammals Convention (NAMMCO), accredited non-governmental organisations (NGOs) such as Greenpeace, the International Fund for Animal Welfare (IFAW) and the Worldwide Fund for Nature (WWF) on the anti-whaling side, and the High North

Alliance, Japan Whaling Association and Species Management Specialists on the pro-whaling side, and the media. Commissioners represent member countries at the meetings, accompanied by varying numbers of advisers. Japan and the USA typically send large delegations of around sixty; smaller delegations might only contain one or two people. Contracting Government delegation members are typically government employees from their member countries, usually from fisheries, environment or foreign affairs departments. There are commonly four to six IGO delegations and NGOs represented may be as many as eighty, both pro- and anti-whaling, with total delegates numbering over one hundred and fifty. The meeting is run by the Chairman, elected from among the Commissioners for a three-year term.

Matters of importance, usually accompanied by recommendations, are brought to the week-long plenary session through a number of standing committees. The most important bodies are the Scientific Committee, which reports on such matters as whale stocks, whale watching and environmental issues; the Conservation Committee, which deals with threats to whale populations such as marine pollution and ship-strikes on cetaceans; and the sub-committees on whale killing methods, aboriginal subsistence whaling and infractions against the Convention. There is also a major committee dealing with finance and administration. The committees meet in the weeks preceding the plenary meeting.

In addition to committee reports and referrals, individual members may bring recommendations to the meeting. If deemed important enough, decisions of the meeting may be in the form of resolutions, which are binding on members, or simply recommendations, which are not binding and may be taken by majority vote or

consensus.

The fundamentals of both the pro- and anti-whaling arguments are simple and strongly-held. Pro-whalers make the case for food security and see whales as a resource to be exploited sustainably. Anti-whalers claim whales are sentient beings that cannot be harvested humanely or sustainably, that whales provide nothing that cannot be obtained elsewhere, and therefore should not be harvested at all. Full discussions of both arguments appear in Chapter 2 of this thesis.

The wording of the ICRW, in particular the requirement for a three-quarters majority to change the schedule, means that, in practical terms, the IWC is unlikely ever to resolve the argument internally. To change the ICRW, in this case, to resolve the pro/anti-whaling divide requires a diplomatic conference. This would be a conference of representatives from each of the Contracting Governments at a different, probably higher level than their IWC Commissioners, specifically authorised to consider changes to the ICRW. It is apparent that both sides see they have too much to lose to risk this approach, since no diplomatic conference has ever been seriously proposed. Civil society on both sides is becoming frustrated by the perceived inactivity of the IWC, resulting in such direct action as the Sea Shepherd Conservation Society's much publicised harassment of Japan's whale research fleet in the Southern Ocean each summer (Jabour & Iliff 2009).

1.5 Threats to Whales in 2012

It is increasingly becoming accepted that whale populations today are under greater threat than at any time since the overharvesting era of the 1960s. Well documented threats from chemical pollution of the oceans by heavy metals and organochlorines

(Busbee *et al.* 1999), noise pollution from military sonar and undersea oil exploration (WDCS 2005), ship strike (NOAA 2004) and net entanglement (IWC 2004 b), are insignificant compared with the possible habitat destruction and ecosystem modification through ocean warming caused by climate change (IWC 2010). The IWC has sponsored research on all of these topics, but it is fair to say that they have not received the attention they deserve, partly at least due to the ongoing dispute over whaling.

1.6 Purpose of the Thesis

The purpose of this thesis is to examine the current issues within the IWC, tracking the attempts to reform the ICRW and IWC, specifically between 2006 and 2010, with the aim of bringing balance and clarity to the debate, and to propose possible solutions to the current impasse. This seemed particularly important in 2009, as the threat of a complete break-up of the IWC appeared more likely than it had since its inception in 1948. The worst result of such a break-up would have been the possibility of unregulated whaling by pro-whaling countries departing the IWC. The breakup did not occur, but finding a compromise between the pro and anti-whaling proponents within the IWC is still an imperative particularly for the anti-whalers.

The thesis examines those issues that have a bearing on the future of the IWC itself, addressing the history of whaling and the regulation of whaling only where they directly influence the current debate. Unlike the majority of literature on the whaling issue, the papers comprising this thesis have been written from an unbiased point of view; the argument of both pro- and anti-whaling proponents being treated with the same respect as representing equally valid, if opposing, views on cetaceans and the

Convention which regulates their relationship with human beings.

Research Questions

The questions intrinsic to the purpose of the thesis can be reduced to the following:

- 1) What are the fundamental problems behind the disharmony in the IWC?
- 2) Can the fundamental problems be resolved, and if so, how?
- 3) If they cannot be resolved, does it really matter, and if it does, is there another way to provide for the conservation of whale stocks?
- 4) If there is another way, how can it be introduced, and how can it succeed?

Thesis Scope and Research Methodology

The thesis is intended to provide a pragmatic and practical commentary on the major issues confronting the IWC and its founding Convention between 2006 and 2010. It includes in-depth position analyses of, and in most cases, practical suggestions for advancing the agendas of both the pro- and anti-whaling members and grouping of members of the IWC, as well as those of the NGOs which are so vitally concerned with the proceedings of the Commission.

There are no deeply theoretical analyses of the motives which may underlie the actions of the various players, as an examination of the literature on the subject shows such analyses, while often detailed and informative in themselves, to be generally inconclusive and seldom constructive in suggesting or even predicting the way forward for the Commission or the Convention. Conclusions in the literature as to the flaws in the Convention are numerous; practical suggestions for how it

might be changed are scarce. Theory of regimes however does provide a useful framework for evaluating the issues within the IWC during the period of examination in this thesis; it is analysed in the section entitled *Framework of Analysis* later in this chapter.

The focus of this work on the reform process within the IWC means that a number of important aspects of the Commission's work are ignored, or receive little mention. One example is the work of the Commission's Scientific Committee, which is responsible for a huge body of excellent research on cetacean science. In fact, the conduct of the Scientific Committee is one aspect of the IWC on which both pro- and anti-whalers can usually agree.

While a considerable volume of literature of a historical and theoretical nature on the IWC exists, there has been relatively little written outside the popular press in recent years about contemporary activity within the IWC; the majority of those which have been written focus on its failure to properly manage whaling. Most, written from either a strongly pro- or anti-whaling position, contain sound suggestions about what the opposing side should do to reduce the conflict, usually ignoring the fact that it is simply not practical to expect either side to give ground in this manner. In the press, reporting on the conflict within IWC annual meetings has been increasing, reflecting or perhaps encouraging, increased public interest, particularly within anti-whaling countries, about the politics of the situation. This interest seldom lasts longer than the few weeks leading up to, and the few days following the meetings.

The method employed in researching this topic has been for the author to attend IWC annual meetings in St Kitts and Nevis in 2006, Anchorage, Alaska in 2007, Santiago,

Chile in 2008 and Madeira, Portugal in 2009. The author also attended the special intersessional meetings called to consider the future of the IWC in London 2008, and Rome in 2009. In each case, the author attended as an observer; following the proceedings and talking to both member delegates and NGOs on both sides of the debate therefore obtaining an insight into real time events.

Reference material has generally been obtained from primary sources, predominantly reports issued by the IWC itself, supplemented in many cases by the author's own notes taken at the meetings. Direct quotes from individual delegates, both government and NGOs have not been used, even though they may have influenced the author's interpretation of some events. The author obtained Ethics Approval (No. H00008875) from the University of Tasmania for interviews, but has deferred to the version of the Chatham House rule adopted by the IWC, in which statements are ascribed to member states rather than individuals.

Literature Review

The literature on the International Whaling Commission tends to fall into five distinct categories. The primary source of information is the records and reports of the IWC itself. For the period under review in this thesis, the Annual Reports of the International Whaling Commission, which include a detailed report of the annual meeting for that year were used. In addition, the IWC website (<http://www.iwcoffice.org>) carries press releases as well as additional information on special meetings and other items of special interest.

Secondly, books such as *The History of Modern Whaling* by Tønnessen and Johnsen (1982), *A History of World Whaling* by Daniel Francis (1990), *International*

Regulation of Whaling: From Conservation of Whaling to Conservation of Whales and Regulation of Whale-watching by Patricia Birnie (1985), *Scientific Uncertainty and the Politics of Whaling* by Michael Heazle (2006) and *Harpoon: Into the Heart of Whaling* by Andrew Darby (2007) all provide excellent coverage of various aspects of both whaling and whaling governance. The first two provide histories of the whaling industry, and include commentary on the IWC in its role in regulating whaling operations. Heazle and Birnie do the reverse. They focus on the IWC's attempts to regulate whaling, covering whaling operations *per se* as required for explanation. The first four are dispassionate and documentary in character. Darby, on the other hand, is clearly strongly anti-whaling in philosophy, yet provides an outstanding coverage of whales, whaling and cetacean politics and governance in a very readable manner. The unpublished book *The Truth about the Whaling Dispute* by Komatsu and Misaki (2001), strongly presents the Japanese point of view.

The third category of literature consists of peer-reviewed papers, conference and symposium papers. The majority of these have been authored by relatively few specialists, and are usually written from a strongly held pro- or anti-whaling stance. Well-known pro-whaling authors include Aron (2001), Burns (2003), Freeman (1999), Friedheim (2001), Kalland (1994), and Morishita (2006), while prominent anti-whaling authors include Currie (2007), Danaher (2002), Papastavrau (2007) and Holt (2009). Among the few non-partisan authors, Bailey (2008) makes a valuable contribution in examining behavioural aspects of organisations in the context of the role of NGOs. Hirata (2004) and Blok (2008) both provide valuable analyses of the Japanese whaling program in particular in terms of international relations and politics.

Popular press articles make up the fourth group. Some of the more prolific writers include Robert Black of the *BBC* and Andrew Darby of *THE AGE* in Australia, and Emma Young of *New Scientist*. Their articles and broadcasts tend to be centred around reporting on annual meetings of the IWC and confrontation between whalers and protesters on the Southern Ocean. The fifth group includes publications of the various concerned NGOs, much of which is also produced for their websites, with special editions produced for the delegates to the IWC annual meetings. By its very nature, much of the content of this material is strongly biased toward the views of the relevant NGO. Although the Japanese Institute of Cetacean Research is not an NGO, its publications best fall into this category.

In addition to the literature specifically devoted to the International Whaling Commission and the Convention, there is a body of literature on the theory of regimes, most of which are of a theoretical or general nature, but a number examine the IWC as a regime, either alone, or in comparison with other environmental regimes. Oran R. Young and Arild Underdal fall into the former category, while Steinar Andresen has written extensively on the IWC and in particular analysing its performance as an environmental regime. The work of Kaye (2001) relates specifically to international fisheries regimes and has some relevance to the whaling convention.

Thesis Structure

All of the material in Chapters 2, 3 and 4 of this thesis are based on published, peer-reviewed papers written by the author of this thesis between 2006 and 2009. The chapters fall into three sections:

The sections comprising Chapter 2 of the thesis are based on papers published in the journal *Marine Policy* between the IWC annual meetings in June 2006 and 2007. Section 2.1 entitled *Compromise in the IWC; is it necessary or desirable?* provides an appropriate start to the analysis of the IWC, and key issues facing the Commission in 2006. This section examines the major issue of the time: whether the IWC really needs “fixing” as has been the subject of innumerable papers in recent years, or whether in fact the IWC can perform a useful function given the ongoing level of conflict between members. Sections 2.2 and 2.3 titled *Normalization of the International Whaling Commission* and *Modernisation of the International Convention for the Regulation of Whaling* present more detailed examinations of the major positions and initiatives of the pro- and anti-whaling groupings within the IWC during 2006-2007.

Chapter 3 of the thesis deals with the reform process and also includes three sections, 3.1 entitled *The International Whaling Regime Post 2007* examines options open to both pro- and anti-whaling groups following the 2007 Annual Meeting of the IWC at which the Chairman launched his initiative on “finding a way forward” for the Commission. It was based on a paper of the same name published by *Marine Policy* following the 2007 annual meeting. Section 3.2, titled *The Hogarth Initiative on the Future of the IWC* traces the progress of the initiative of Chairman Hogarth in his attempt to find a way forward for the IWC by ridding it of the issues which have divided its members for more than twenty years, and threaten its continued existence. Section 3.3: *Contemporary Initiatives on the Future of the IWC*, examines initiatives outside the mainstream IWC process also attempting to resolve the impasse. The papers on which these sections are based were written and accepted for publication

by ***Marine Policy*** following the IWC meetings in 2008 and 2009. These two chapters detail the reform process leading to an intensive period of special meetings for the IWC. The Commission's annual meeting in 2008 set up a Small Working Group (SWG) comprising thirty-three members to address the issues identified to be resolved in bringing harmony to the IWC. By the meeting of 2009, a Chairman's Support Group (SG) of delegates from twelve member states was set up to overcome the problems encountered with achieving consensus among the members of the SWG. The SG was to make suggestions to be considered by a meeting of the SWG, which was, in turn to make recommendations to an intersessional meeting of all members proposed to be held before the end of 2009. Recommendations and action proposed at the intersessional were to be taken to the full IWC annual meeting in Agadir, Morocco in June 2010. Comments on these meetings are included in the thesis conclusion.

Chapter 4 of the thesis develops a different but related line of argument. These chapters more specifically address Australia's position on whaling. Section 4.1, titled *The Great Whale Debate: Australia's Agenda on Whaling* covers aspects of contemporary whaling issues specifically from Australia's viewpoint, and provides a background to the Australian Initiative in the IWC which was dealt with in more detail in section 3.3.1. The original paper on which this section is based was written in conjunction with Dr Julia Jabour and Dr Eric Jaap Molenaar for a book on Australian policy initiatives in Antarctica and the Southern Ocean entitled ***Looking South: Australia's Antarctic Agenda***, so in some respects it is outside the IWC framework which binds the other chapters. However it is a useful addition to the thesis because it contains analysis of international and domestic obligations on

Australia that influence and impact on its whaling policies. Section 4.2, *Theatre Sports in the Southern Ocean*, is also based on a published paper (Jabour & Iliff 2009) and was written partly in response to the often ill-informed media coverage of protest activities in the Southern Ocean against Japanese scientific research by lethal means. It was published in *The Australian Journal of International Affairs* in June 2009. This section is a discussion and analysis of some of the important elements of the confrontations in the Southern Ocean in December 2007 and 2008 between the Japanese whaling fleet and vessels owned by the Sea Shepherd Conservation Society and to a lesser extent, Greenpeace and the Australian Government. It covers in some detail relevant domestic and international legal issues not covered elsewhere. Its relevance to the IWC and the thesis lies partly in the bipartisan concern expressed by IWC members regarding the illegal and dangerous activities of the Sea Shepherd Conservation Society in taking direct action in opposing Japanese whaling in the Southern Ocean, and partly as background to some of the initiatives outside the IWC discussed in 3.3.

In retrospect, it is interesting to note that some of the suggestions presented in the papers have been either influential or prophetic. *The Great Whale Debate* and *Compromise in the IWC* both recommend strengthening the conservation agenda of the IWC as a non-confrontational but positive approach for the Commission and this forms the basis of the Australian Initiative (3.3.1) that was introduced some years later. In addition, *Compromise in the IWC* and *The International Whaling Regime Post 2007* both presented possible actions by the pro-whaling members which are remarkably similar to the Safety Net initiative, again described in detail in 3.3.2. Finally, concern over protest activities in the Southern Ocean such as those described

in Section 4.2 have heightened in recent years, drawing condemnation from many quarters including the International Maritime Organization (IMO 2010) and the IWC itself (IWC 2011a).

The fact that the thesis has been built around a number of papers written over a four year period, and published as they were written, means that there are some apparent inconsistencies, even though the papers have been modified slightly to conform to the thesis format. For example, although the papers were written in the present tense, they have generally been converted to past tense, but there are exceptions where the sense has dictated. In addition, there are instances where earlier papers are contradicted or reinforced by events described in later papers.

1.7 Regime Theory as a Basis for Analysis

The rapid rise in environmentalism globally since the 1970s has given rise to a plethora of international conventions dealing with a wide variety of environmental issues from pollution of air, water and soil to conservation of individual and collective species, treatment of waste, and global warming. As one of the oldest international environmental conventions, and the forerunner of many more recent fisheries conventions, the International Convention for the Regulation of Whaling has been subject to considerable scrutiny over many years, both for its own sake, and for comparison with other conventions. One method for such analyses is regime theory.

Regime theory became popular in the 1970s and 1980s as an alternative to the analysis of the use of international law as a means of evaluating international cooperation. Kaye (2001:24) states that “the underlying principle of regime theory is

that states operate in an environment of international problems...regimes are simply the need for state cooperation on an issue or problem manifested in agreement.” Krasner (1983:2) defines regimes as “sets of implicit or explicit principles, norms, rules and decision-making procedures around which actors’ expectations converge in a given area of international relations”, while Keohane (1993:23) defines regimes as “a way to understand international cooperation, defined as coordinated mutual adjustment of states’ policies yielding benefits to participants”. Kaye (2001:31) sees the benefit of regime theory as “a tool which assists in explaining how (the response to a problem) was formulated”, and notes “that what factors were relevant in its (the regime’s) formulation must therefore be of assistance in understanding the scope and nature of that response”. A weakness of regime theory, according to Kaye (2001:37), is its inability to “explain the persistence of a regime even when the value to the State of maintaining the regime has diminished over time”.

Young (2011) critically reviews the literature on the topic of environmental regimes and their effectiveness. He notes at the outset that “governance systems work relatively well at the national level, but poorly or not at all in efforts to solve international, transnational, and especially global problems” (Young 2011:1). He also notes the wide diversity between the effectiveness of international regimes. In attempting to identify the reasons for this diversity, he raises such issues as the difficulty of defining and determining effectiveness, design of regimes, and level of regulation attempted, and changes in regimes after foundation. The role of dominant actors and formation of coalitions is also examined, and allied with these is the role of negotiation and the perception of fairness and legitimacy in any outcomes achieved. Relationship with other regimes he also sees as playing an important part

in determining effectiveness as is the effect of changing attitudes within civil society.

Underdal (2002) simplifies the analysis of the difference between the effectiveness of various regimes by comparing the importance of the problem which the regime has been set up to resolve, with the ability of the regime to solve the problem. Like Young, he commences with an examination of effectiveness, starting with the observation that even the fundamental question “What constitutes the object to be evaluated?” (Underdal 2002:5) may not be as simple as it may first seem. He makes the point that the actual outcomes of a regime-forming process i.e. the norms, principles and rules which constitute the regime could be evaluated as a measure of effectiveness, but may not be as important as the effectiveness of the consequences flowing from the implementation of the regime.

Most, if not all of the factors mentioned above, play some part in the performance of the IWC, both historically and during the period under review in this work. Of prime importance in examining the whaling convention as a regime is the time since it entered into force, and this will be brought out in the following discussion.

Issues affecting the effectiveness of international environmental regimes

In his paper *Effectiveness of international environmental regimes: Existing knowledge, cutting edge themes, and research strategies*, Oran Young (2011:4) examines the work of a number of authors in the field, and identifies a number of “cutting-edge issues” which will be used to evaluate the effectiveness of the international whaling regime in the past, and to examine the issues affecting the recent attempt to reform the International Whaling Commission.

Deep Structure

Young (2001:4) cites Underdal (2008) in asserting “Environmental regimes are specialized arrangements embedded in and reflecting the deep structure of international society”. He notes that regimes must be compatible with the features of the current structure, mentioning particularly the growing importance of the role of NGOs and the emergence of global civil society.

Established as a “whalers’ club”, the IWC initially at least, had no need to take account of the complexity of international society, and not until the 1970s, when NGOs and Western society began to take an interest in environmental issues in general and whaling in particular, did the IWC concern itself with anything other than the declining number of whales. Even after 1982, when the organisation was effectively hijacked by NGOs acting through member governments, the IWC still did not appear to grasp the need to engage civil society. It also studiously ignored, at an official level at least, the role of NGOs, confining them to observer status at its annual meetings until very recently even though they have played, and still play, a major role in shaping the whaling policies of many, particularly anti-whaling governments. Even though NGO observer numbers of the order of 100 were attending meetings, it was not until the 2008 meeting that NGOs were allowed to address the plenary meeting. Shortly after, one of the initiatives in the package of reforms introduced by Chairman Bill Hogarth in the period 2006 to 2009 was a stated intention to engage more directly with civil society. How this change has affected the IWC and its bearing on the reform process is examined in Chapter 3.

Problem Structure

Many authors begin their analyses of international regimes by looking at the nature of the problem giving rise to the regime formation, and then analysing the success or otherwise of the regime starting with an evaluation of how easy or difficult the problem was in the first place. Young (2001) notes that often the results are counterintuitive; the apparently easier problems may in fact be more difficult to resolve. Underdal (2010) identified some of the issues making environmental problems difficult to solve as firstly, the likelihood that the problems are long term, and the time lag between action and results may be considerable, secondly they are likely to be “embedded in complex systems”, thirdly they are “clouded by uncertainties”, and finally they may “involve global collective goods” (Underdal 2010:388). The whaling issue demonstrates elements of all of these. The harvesting of whales has been a long term issue, and observing the results of action taken is certainly subject to a time lag in terms of the effect on whale populations of both increases and decreases in annual harvest numbers. In fact, the effect of a total ban on commercial whaling commencing in 1986, is only recently resulting in measurable increases in whale numbers, and is still clouded by uncertainties. The issue of whale stocks being global collective goods as viewed by Underdal (2010) is further complicated by the whales’ migratory patterns, meaning that an individual population of whales could well inhabit the territorial waters of a number of different countries in the course of a single year’s migration, and therefore “belong” to a number of countries as well as “belonging” to the world. The thesis covers the nature of the problem in terms of all the issues above.

Power

Young (2001) relates the role of power in the evaluation of the effectiveness of a regime to hard and soft power, cognitive and structural power, and issue-specific as well as general power. He cautions against overemphasizing the role of power in regime analysis because of its role as a driving force in all world affairs. The whaling regime exhibits all of the variations in power mentioned above. The United States' use of the Packwood-Magnusson and Pelly Amendments will be mentioned later as specific examples of the use of hard power, as will the Japanese use of economic aid to emerging nations as an inducement to join the IWC and join the pro-whaling side. Another example seen in the whaling regime was the threat by anti-whaling NGOs to promote boycotts of Norwegian and Icelandic goods in an attempt to stop them whaling.

The role of structural power will be discussed in the formation of voting blocs within the IWC; recent examples being the Latin American countries and the EU. Issue specific as opposed to general power is not so much of an issue within the IWC as all its deliberations tend to be issue specific, and the smallest members have equal voting rights with the largest.

Participation vs. Depth

Young (2001:5) asserts that "because participation in international regimes is voluntary, there is a tendency to settle for arrangements that are shallow in terms of substance to make them palatable to all relevant actors". A number of authors have described this as "the law of the least ambitious program" (Young 2001:5). The rationale of such action is clear; commencing with small steps is likely to lead to

greater things, however this is not always the case (Barrett 2003). This process was recommended to overcome the impasse in the IWC by Calestous Juma in his role as special adviser to the chairman as will be discussed in detail in Chapter 3. The IWC since 1982 at least, had not used this approach, preferring instead stalemate rather than compromise. In the years since 2006, there has been a marked change in approach, with the result that conflict levels have dropped considerably, though a major change in effectiveness is yet to be seen. As will be discussed, the issue of participation in the case of the IWC is further complicated by the “opt out” provision in Paragraph 3 of Article V of the Convention, which allows any member which does not agree with a decision of the Commission to simply not comply with that decision.

Compliance

Young cites Chayes (1995) noting that compliance is not a great issue for regimes which are not fundamentally regulatory in character, but also notes that “even in regulatory settings, a management approach is sometimes more effective than an enforcement approach”. He points to a need to “deepen our understanding of mechanisms that can produce compliant behaviour in the absence of sanctions” (Young 2001:5). As Andresen (2002) has pointed out, for most of its life, the IWC members have been reasonably compliant with decisions of the Commission; it has been the decisions themselves which have been doubtful. The thesis discusses a number of these issues in detail.

Fairness and Legitimacy

Two schools of thought exist in considering the role of fairness and legitimacy. March and Olsen (1998) judge success or failure of regimes in terms of collective

action and downplay fairness, while Franck (1995) places higher value on appropriateness. As will be discussed, perception of fairness plays an important part in the whaling regime due to a number of factors, not the least of which is the view of pro whalers that the wording of the Convention is being totally ignored by the majority anti-whaling faction.

Policy Instruments

Two possible contrasting approaches are suggested by Young (2011); command and control, and incentive mechanisms, noting that the latter has the advantage of giving subjects the reason to focus on ongoing innovation. Unfortunately, the ICRW focuses entirely on command and control, the only incentive for conformance being where it suits self-interest. Even in the early phase of the IWC, when all members were whaling countries and there was an overall commonality of interest, self-interest overruled the common good and compliance was low (Andresen 2002). In the period under review in this thesis, it will be shown how the IWC has moved from a total control and command attitude towards the use of incentives, though there is still a long way to go.

Interplay Management

Young (2011) notes that this is a relatively recent factor in international regimes, however the framers of the ICRW inadvertently ensured it would not become a major factor to be considered in the whaling regime by getting in first and establishing primacy over whaling. Later treaties such as the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) and the Convention for International Trade in Endangered Species of Wild Fauna and Flora (CITES) specifically defer to

the ICRW on matters relating to whaling, while the United Nations Convention on the Law of the Sea (UNCLOS) effectively does the same by mentioning “appropriate” international organisations in Sections 64 (Highly migratory species) and 65 (Marine mammals). Reference to both CCAMLR and UNCLOS will be mentioned later in the context of establishment of a new whaling convention, but there has been no suggestion of interplay between the ICRW and any other convention.

Nonlinearity

This feature of environmental behaviour refers to the often abrupt and/or irreversible changes which may occur with the depletion of a resource, in this case, whales. The ICRW was set up in part, to address the alarming depletion of whale resources but failed to arrest overharvesting, until the whaling industry reached virtual extinction along with many species of whales. Longevity of individuals, long period to maturity and low birthrate mean that stock recovery is difficult to estimate, particularly when little is known about many individual populations. Since the introduction of the moratorium, some stocks of some species have recovered to a point where limited whaling could be considered, while numbers of others are still unknown.

As scientific knowledge has improved, some of the compromise proposals discussed in this thesis have proposed the lifting of the moratorium to allow some whaling, but in each case, the spectre of scientific uncertainty regarding population recovery (the precautionary principle) has been raised to ensure the compromises have been defeated.

Scale

Keohane and Ostrom (1995) question the application of findings of analyses done at small scale level to international scale issues. In the whaling case, this argument has been used mainly by NGOs calling on members and nations alike to “Save the Whale” and strongly suggesting that all whales are endangered. As will be shown in the following chapters, the NGOs campaign along this argument has been remarkably successful, and indeed has held the moratorium in place against scientific advice.

These factors then, form the theoretical framework through which the practical examination of the International Whaling Commission and the activities of its members, supporters and critics during the period 2006 to 2010 have been carried out in order to follow the reform process through that period.

The following chapters have been removed for copyright or proprietary reasons

Chapter 2.1 – The IWC in 2006 (pp 38 -44)

Has been published as:

Iliff, MS, Compromise in the IWC: Is it possible or desirable?, Marine Policy, 32, (6) pp. 997-1003.
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Abstract

It is widely assumed that a compromise position must be reached between pro- and anti-whaling groupings within the International Whaling Commission. This assumption is based on the belief that the Commission will collapse in the absence of any such compromise, and has been the driving force behind a number of compromise proposals in recent years. This paper argues that the fundamental positions of the two groups are so different, and that both groups are getting enough from the current position as to make it unattractive to either group to make any serious concessions toward a compromise position. The suggested solution is for the two groups to “agree to disagree”; using the resulting improvement in goodwill between them to focus on cooperation on those aspects of whale conservation on which they can agree.

Chapter 2.2 - Normalization of the International Whaling Commission (pp 55-71)

Has been published as:

Iliff, MS, Normalization of the International Whaling Commission, Marine Policy, 32, (3) pp. 333-338.
ISSN 0308-597X (2008)

<http://dx.doi.org/10.1016/j.marpol.2007.07.002>

Abstract

In 2006, the pro-whaling group within the International Whaling Commission introduced a programme of "Normalization" in an attempt to address its long held accusation that the Commission is dysfunctional. This paper traces the twin issues of dysfunctionality and normalization; it looks at the progress of the Normalization initiative so far, and assesses its likelihood of success. The paper also briefly examines "Modernization", as an alternative for anti-whaling proponents to Normalization.

Chapter 2.3 Modernisation of the ICRW (pp 71-84)

Has been published as:

Iliff, MS, Modernisation of the International Convention for the Regulation of Whaling, Marine Policy, 32, (3) pp. 402-407. ISSN 0308-597X (2008)

<http://dx.doi.org/10.1016/j.marpol.2007.08.003>

Abstract

Modernisation of the International Convention for the Regulation of Whaling (ICRW) has long been proposed by some contracting states and outsiders as a way of resolving the “Whaling Dispute” within the International Whaling Commission (IWC); however, both sides of the debate have traditionally been unconvinced that they would gain enough benefit to make the process worthwhile. Since the collapse of the negotiations on the Revised Management Scheme, the pro-whalers within the IWC have pursued an agenda of “Normalisation” of the IWC in an attempt to resume sustainable commercial whaling under what they believe is the true intent and wording of the ICRW. An attractive alternative to normalisation, particularly to many anti-whalers, is the rewriting of the Convention itself to incorporate many of the elements of more modern conventions, and to remove the clauses in the ICRW which have allowed prowhaling members of the IWC to carry out whaling operations despite the disapproval of the majority.

Chapter 3.1 The International Whaling Regime Post 2007 (pp 85-99)

Has been published as:

Iliff, MS, The international whaling regime post 2007, Marine Policy, 32, (3) pp. 522-527. ISSN 0308-597X (2008)

<http://dx.doi.org/10.1016/j.marpol.2007.10.001>

Abstract

Japan's delegation to the International Whaling Commission (IWC) must have gone to the 2007 meeting in Anchorage believing that the prospects of at least the commencement of the process leading to the overturning of the moratorium were better than they had been since 1986. The passing of the St. Kitts and Nevis Declaration at the 2006 Meeting, the gathering momentum of their Normalisation agenda, and their own determination to compromise some of their own agenda in the interest of harmony within the IWC, would have formed the basis of this belief. The reality was totally different. There was no compromise by the anti-whaling group within the meeting who also regained the simple majority position which had been lost in 2006.

Japan must face the reality that Normalisation is as far away as ever, and that if the situation within the IWC is to change, it is Japan who must change. This paper canvasses some of the possibilities arising out of the 2007 meeting.

Chapter 3.2 The Hogarth Initiative on the Future of the International Whaling Commission (pp 100-122)

This has been published as:

Iliff, M. The Hogarth initiative on the future of the International Whaling Commission

Marine Policy, 2010, vol. 34, issue 3, pages 360-366

<http://dx.doi.org/10.1016/j.marpol.2009.08.004>

Abstract:

Dr Bill Hogarth of the USA was the Chairman of the International Whaling Commission from 2006 to 2009. In a typical masterpiece of understatement, at the beginning of his term, he launched an initiative to reform the IWC with the words "it would be useful for the Commission to have a general discussion concerning the future of the IWC, given...the number of issues for which polarisation rather than consensus appears to be the norm". This paper follows his initiative through three annual, and two intersessional meetings of the IWC, commenting on the major issues and events as well as the actions of the main players. It concludes with an analysis of the results of the initiative, and makes some predictions for the future of the IWC.

Chapter 3.3 Contemporary Initiatives on the Future of the International Whaling Commission (pp 123-148)

This has been published as:

Iliff, MS, Contemporary initiatives on the future of the International Whaling Commission , Marine Policy: The International Journal of Ocean Affairs, 34, (3) pp. 461-467. ISSN 0308-597X (2010)

<http://dx.doi.org/10.1016/j.marpol.2009.09.013>

Abstract

In his term as Chairman of the International Whaling Commission between 2006 and 2009, Dr Bill Hogarth championed a process for finding a way forward for the IWC. In parallel with, and in places intertwined with the Hogarth Initiative, a number of other initiatives attempting to move the IWC forward have been proposed by a range of stakeholders; both governments and NGOs. This paper traces the more important suggestions, commenting on their likelihood of success

Chapter 4.1 The Great Whale Debate: Australia's Agenda on Whaling (pp 149-174)

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Abstract

In the great whaling debate, fuelled twice yearly by the annual International Whaling Commission meeting and the departure of the Japanese research fleet for the Southern Ocean, silliness knows no bounds. 2008 was no exception, as the Southern Ocean again became the location of protest action (sometimes provocative and potentially life-threatening) against Japanese scientific research vessels. The Japanese are accused of 'whaling' in a whale sanctuary off the Australian Antarctic Territory, yet this claim to sovereignty is not legally proven and therefore not universally accepted. The Rudd Labor Government bowed to significant pressure and sent its Customs vessel, the *Oceanic Viking*, to spy on the Japanese fleet and gather evidence for a possible 'world court' action. This paper examines what options were available to Australia to intervene in the protest action, to monitor the Japanese research and to take legal action in an international forum within the constraints of internationally defined diplomatic and legal boundaries. It concludes that the risk of attracting the wrath of the Japanese government and other Antarctic Treaty countries is great indeed and the Australian government must be careful not to step too far outside these boundaries.

Chapter 5 Epilogue

Since the publication of the papers on which the preceding chapters of this thesis have been based, a number of relevant events have occurred. This chapter covers the most important of those in terms of their bearing on the reform process within the IWC.

5.1.1 Annual Meeting of the IWC in Agadir, Morocco, June 2010

There had been high hopes, and not a little controversy in the lead-up to the meeting, in respect of the process of reform in the IWC. The Chair's support group (SG) and the Small Working Group (SWG) set up by the former chairman, Bill Hogarth, and continued under the chairmanship of Christian Macquiera.

The SG met in September and December 2009, and in January 2010; producing a report which was submitted to the SWG in March 2010. Based on the discussion at that meeting, and written comments subsequently submitted by a number of Contracting Governments, the SG met again and produced a "Proposed Consensus Decision to Improve the Conservation of Whales" (Proposed Consensus Decision) for submission to the Agadir meeting. The fundamental components of the proposed consensus were to:

- 1) "...retain the moratorium on commercial whaling;
- 2) suspend for a 10-year period unilaterally-determined whaling under special permit, objections and reservations;
- 3) bring all whaling authorised by member governments under the control of the

IWC;

- 4) limit whaling to those members who currently take whales;
- 5) ensure that no new non-indigenous whaling takes place on whale species or populations not currently hunted;
- 6) establish caps for the next 10 years that are significantly less than current catches and within sustainable levels and determined using the best scientific advice;
- 7) introduce IWC monitoring, control and surveillance measures for non-indigenous whaling operations;
- 8) create a South Atlantic Sanctuary;
- 9) recognise the non-lethal value and uses of whales, such as whalewatching, as a management option for coastal states...;
- 10) provide a mechanism for enterprise and capacity building for developing countries;
- 11) focus on the recovery of depleted whale stocks and take action on key conservation issues, including bycatch, climate change and other environmental threats;
- 12) set a decisive direction to the future work of the IWC including measures to reform the governance of the IWC;
- 13) establish a timetable and mechanism for addressing the fundamental

differences of view amongst member governments in order to provide for the effective functioning of the IWC over the longer term” (IWC 2010a).

It was acknowledged that the Proposed Consensus Decision did not represent a final agreed approach of either the SG or SWG, but was put forward “to facilitate further discussions...at IWC 62” (IWC 2010b).

A two day meeting was held immediately prior to the Annual Meeting to discuss the Proposed Consensus Decision, and a further one and a half days of the meeting itself. While there was consensus on the fact that the IWC had come a long way in working more constructively during the process, there were still fundamental issues dividing the member governments’ attitudes to the moratorium, special permit whaling, indigenous whaling, sanctuaries and trade in whale products (IWC 2010c). The meeting was unable to accept the Proposed Consensus Decision, and agreed “that a period of reflection is warranted until the 2011 Annual Meeting” (IWC 2010d). The chair suggested a number of ways in which member governments could work together in the intersessional period, but the fundamental and controversial differences were not included (IWC 2010d).

5.1.2 Annual Meeting of the IWC in Jersey, UK, July 2011

After the year of reflection, the IWC meeting in 2011, in considering the agenda item on the IWC in the Future, discussed a resolution proposed by the United States and New Zealand which essentially committed the Commission to continuing working in the improved spirit which had been the result of the Hogarth Initiative. It did not address the divisive issues, but proposed to:

- 1) “...encourage continuing dialogue amongst Contracting Governments regarding the future of the IWC;
- 2) Continue to build trust by encouraging Contracting Governments to coordinate proposals or initiatives as widely as possible prior to their submission to the Commission;
- 3) Encourage Contracting Governments to continue to cooperate in taking forward the work of the Commission, notwithstanding their different views regarding the conservation of whales and the management of whaling” (IWC 2011).

The situation regarding the *Hogarth Initiative* for finding a way forward for the IWC at the end of the 2011 annual meeting is therefore very little different from the situation at the end of the 2009 meeting; improved goodwill among members, but no real change on the important issues which have divided the parties since 1982. The *Hogarth Initiative* has gone the way of the *Irish Proposal* of 1997 and the *Chair’s Proposal for a Way Forward on the RMS* of 2004, but it has at least resulted in a number of improvements to administrative procedures, and greatly improved goodwill at meetings.

5.1.3 Activities of the Sea Shepherd Conservation Society against Japanese Whaling

If the progress on improving whale conservation through IWC has been agonisingly slow over the past two years, Paul Watson and the Sea Shepherd Conservation Society have shown no such reticence. Since the confrontation described in Chapter 4.2, Sea Shepherd has sent at least one vessel to the Southern Ocean each summer to

confront the Japanese whaling fleet off the coast of Antarctica. The protests reached a climax in 2010 with the ramming and sinking of the protest vessel *Ady Gil* by one of the Japanese whaling vessels, and the subsequent boarding of the Japanese ship by the captain of *Ady Gil* (a New Zealand citizen) to present an invoice for the cost of the sunken vessel and to make a citizen's arrest of the Japanese captain on a charge of the attempted murder of *Ady Gil's* crew. In the event, it was *Ady Gil's* captain who was arrested, taken to Japan on the whaling vessel, charged and later indicted on five counts, including illegally boarding a Japanese whaling ship and inflicting injury, forcible obstruction of business, destruction of property, and violation of the swords and firearms control laws (*Asahi Shimbun* 2010).

Sea Shepherd has claimed a victory over Japanese whaling each year as the whaling fleet has returned to Japan without catching its allocated quota of whales.

5.1.4 Australia's Case against Japanese Whaling before the International Court of Justice

Following an election promise to the Australian people in 2007, the incoming government lodged a claim in the International Court of Justice (ICJ) in 2010. From the small amount of information available on the case, it can be deduced that Australia's case includes allegations concerning:

- a) Japan breaching good faith in respect of its obligations as a signatory to the ICRW;
- b) Japan's scientific permit whaling program jeopardising vulnerable whale stocks;

- c) Japan breaching ICRW Schedule para 10e regarding zero commercial whale catches;
- d) Japan breaching ICRW Schedule para 7b by taking whales other than minke in contravention of its reservation to the creation of the Southern Ocean Whale Sanctuary (Stephens 2010, Jabour 2011).

It is interesting that in bringing this case before the ICJ based on the ICRW, Australia has taken the opposite tack from that taken successfully by the Humane Society International in its case against Japanese whaling as described in Chapter 4.1. In doing so, Australia avoids getting involved in the thorny issue of Antarctic sovereignty which could have had serious consequences for the whole Antarctic Treaty System. Even avoiding the Antarctic issues, there remain inherent dangers in Australia's bringing of the case to the ICJ. If Australia succeeds in obtaining a judgment against Japanese whaling under any of the arguments outlined above, it could precipitate Japan's exodus from the IWC, with the consequences as discussed earlier. If Australia loses on any or all of the points mentioned, Japan's position will be legitimised to a greater or lesser extent, with a resultant weakening of the whole anti-whaling position in the IWC. The earliest a decision can be expected from the ICJ is in May 2012.

Chapter 6 Conclusion

6.1 *Reform of the IWC in terms of Regime Theory*

As has been discussed, consideration of the nature of the problem is of vital importance when analysing the effectiveness of a regime, and the ICRW is no exception. When regulation of whaling was first suggested in the League of Nations in 1931, and when the ICRW actually entered into force in 1946, the problem was relatively unambiguous, viz: the declining number of whales, and the falling price of whale oil. The purpose of the Convention was also unambiguous: the new regime would regulate the number of whales killed each year, thus ensuring the survival of whale stocks, and forcing up the price of oil. The problem today is very different. Approximately 10% of the members want to hunt whales, another 40% support hunting for various reasons without participating, while the remaining 50% neither want to kill whales; nor do they want to see anyone else killing whales. Yet the convention covering the two scenarios is unchanged and in practice at least, unchangeable.

The *Hogarth Initiative* has attempted to bring a level of harmony to the IWC's meetings by attempting to broker agreement on issues covered by the Schedule, but the rigid nature of the Convention itself in terms of many of the cutting edge issues discussed in Young (2011) has helped to defeat the goodwill engendered in the process. Interestingly, the absence of some of the issues raised by Young as contributing to regime ineffectiveness; for example, the role of power, compliance and interplay with other international instruments, have worked in reverse for the IWC in this reform process. Lack of overt power by any one or group of members in

recent years has meant that coercion simply does not work as it did in the 1980s when the USA “persuaded” Japan to accept the moratorium by threatening to invoke the Packwood- Magnusson and Pelly Amendments as discussed in Chapter 3. Similarly, the strong compliance regime of the ICRW Schedule of say Clause 10 (e) which can be totally overridden by Article VIII or Article V (3) makes the issue of commercial whaling very black and white, with the possibility of scientific permits lurking in the background and capable of adding total confusion to the situation. Lack of interplay with other conventions means that the opportunity for trade-offs is not possible.

Regime theorists would also see the failure of the reform process between 2006 and 2010 as due to the difference in expectations between pro- and anti-whalers. The expectations were clear; the pro-whalers were seeking Normalization of the Commission, while the anti-whalers were seeking Modernisation of the Convention. They would also see a profound influence caused by the IWC’s failure to involve NGOs and civil society, resulting in significant activity outside the IWC, and a corresponding loss of control of the debate over whaling issues. The interest in whaling in the popular Western press during the annual whaling season in the Southern Ocean as described in Chapter 4 certainly equaled, if not exceeded the press interest in the annual meetings of the Commission.

Scientific uncertainty has always played a major role in inhibiting the effectiveness of the Commission; even in the period under review, in spite of the improved scientific knowledge showing that some harvesting of some whale stocks is sustainable and therefore clearly within the intent of the Convention, the Commission is able to prevent the return of commercial whaling. The nature of

the problem has thus changed again with a sustainable harvest possible, but with few members interested in whaling and demand for whale products almost killed by the moratorium.

The nature of the membership of the IWC has changed as much as the change in the nature of the problem between its first meeting in 1948 and its most recent meeting in 2012. The founding fifteen members were all whaling states, and had a vested interest in the viability of their respective whaling industries. With the change in the nature of the problem as described above, came a change in the membership.

The environmental movement through the 1970s saw recruitment of non- and anti-whaling members until they achieved a majority in the early 1980s which was reduced to roughly equal numbers in the early 2000s. The change in the problem has seen the rise and demise of the “middle-minded” group and the close vote in 2006 can be seen as responsible for the return to polarisation. The expectations of the various member groupings within the IWC at this time, can therefore be seen to be very different, and it follows that the views of the effectiveness of the regime varied widely also.

The two preceding sections describe how the problem and the membership have changed over time while the wording of the Convention has remained the same. It has been discussed why the wording cannot easily be changed, and it can be seen that during the period under review, as in the past, attempts were made to change the focus of the Commission by changing the Schedule without changing the Convention itself. As in the past, such attempts have been unsuccessful.

6.2 Answers to the Research Questions

The conclusions of this thesis in respect of each of the research questions posed are as follows:

What are the fundamental problems behind the disharmony in the IWC?

Put in the most simplistic way, the disharmony in the IWC is caused by the difference in opinion between those Contracting Governments which believe in harvesting whales, and those which do not. In reality, however, the arguments advanced by both sides are not nearly as simple as that. The pro-whaling argument has its roots in those countries where the major source of their food, particularly protein, is the ocean. In many cases, there is a strong cultural attachment to fishing, and whaling is seen as simply another form of fishing. Many are island countries; others have a significant proportion of their inhabitants living on the coast. In many, a lack of suitable grazing land means that producing meat from terrestrial animals is simply not feasible. Japan, Norway, Iceland, Chukotka, Alaska, many Caribbean islands and many Pacific Ocean islands fall into this category. Some of these have a tradition of whaling going back centuries, or even longer. In many cases, these operations have been perfectly sustainable until the whale stocks on which they depended were reduced or destroyed by the industrial scale whaling operations of other nations.

With the current severe depletion of fish stocks world-wide, many of these fishing dependent countries face severe food shortages as soon as the next decade. Small wonder that they call for sustainable harvesting of whales, as is indeed allowed under

the United Nations Convention on the Law of the Sea (UNCLOS).

Another element of the pro-whaling argument is the deep seated cultural importance many cultures attach to whale hunting and consumption. For small and particularly isolated communities, it is easy to see how the whale hunt and sharing of the meat can have become a significant part of the life of the community. This aspect is recognised in the aboriginal subsistence whaling quotas allowed by the IWC, but the setting of quotas, and the definitions of “aboriginal” and “subsistence” have also caused disharmony.

The anti-whaling argument has several interwoven elements. The first gained popularity leading up to, and following the United Nations Conference on the Human Environment in 1972, at which the growing environmental movement chose the whale as the symbol of the devastation humans had wreaked on the natural environment. The evidence of this devastation on whale populations was clear for all to see. The whaling industry itself had been trying to regulate the harvest for some 40 years, without success, to halt the carnage. Saving the whales was promoted as a demonstration that other elements of the natural environment similarly devastated, could also be saved.

The second element of the anti-whaling argument is the animal welfare argument. Killing such a large animal in an uncontrolled environment such as the ocean means that often an individual whale takes a long time to die, even using the most modern equipment, and in a higher-order mammal such as a whale with a well-developed central nervous system, this clearly means considerable suffering. The third element is akin to the cruelty argument. Whales have highly developed brains, and also enjoy

a well-developed social structure, indicating high intelligence. They also appear to show curiosity and an affinity for contact with humans. Kalland's "Superwhale" concept has led to the belief in some quarters that killing any whale is inhumane, even akin to murder.

The apparent inability of either side to comprehend, let alone appreciate the beliefs or arguments of the other, has led to an atmosphere of deep mistrust between members of the IWC.

The ICRW itself is responsible for another level of disharmony within the IWC. Written as it was as a convention to regulate whaling, it also contains clauses which promote concepts of conservation well in advance of the thinking at the time it was written. While pro-whalers complain that the Convention was written for those who want to hunt whales, and any member not wanting to whale should withdraw, anti-whalers equally vehemently point to the conservation aspects of the Convention, and have used the literal meaning of some clauses in defiance of what others see as the true purpose of the ICRW. In a similar manner, the composition of the IWC has been a cause of disharmony. The voting in of the moratorium in 1982 was achieved by the recruitment into the IWC of new members who had never had a whaling industry, and never intended to, but the same countries who induced this fundamental change in membership more recently have complained about alleged "membership stacking" and "vote buying" to reverse the position by pro-whalers, predominately Japan,.

Another reason for disharmony arising from the ICRW is the whaling carried out under the "reservation" and "special permit" clauses. The latter particularly, is seen by many anti-whalers as a loophole in the Convention allowing Japan and Iceland to

carry out whaling out of the control of the IWC. The “modernisation” agenda proposed the removal of both, and one reason for the rejection of the “Proposed Consensus Decision” was its failure to abolish them completely.

Yet another cause of disharmony within the IWC is a general feeling of injustice. There are several causes for this. Firstly, many of the most vociferous anti-whaling members are former whaling countries, whose activities prior to the moratorium contributed in a major way to the reduction in whale stocks which continues to this day. Countries which were whaling long before some of the “industrial whaling turned anti-whaling” countries resent being told by the instigators of the problem that they can’t continue to whale because it is unsustainable. Japan takes this argument a little further. Most anti-whaling focus, both from governments and NGOs is directed towards Japan as the world’s biggest taker of whales, and the ICRW clauses under which whaling is carried out. This has led to a perception, in Japan at least, that anti-whaling protest is “Japan bashing”.

Internal politics within member governments is also responsible for disharmony. Strong environmental NGO movements, particularly in the wealthier member countries have a significant effect on government policy, and in countries where there is no whaling, a strong anti-whaling stance in the IWC means cheap votes for any government. Conversely, in smaller, poorer, often less democratic countries facing declining food availability through declining fish stocks, governments have no such luxury.

Disharmony in the IWC then, is deep seated, financial, cultural, often historical, occasionally irrational and used by both side for their own, often political purposes.

How it can be managed will be discussed further.

Can the fundamental problems be resolved, and if so; how?

As has been shown above, the reasons for the disharmony in the IWC are many and varied. Some clearly would be easier to resolve than others. Dealing first with the pro-whaling case, the economic and political arguments associated with the food security issue for example, could be readily resolved by the wealthy countries guaranteeing help for those countries faced with failing fishing industries. This help could come in a number of ways. The most obvious would be to ban large scale industrial fishing operations by foreign countries from the waters of vulnerable countries, and to provide outside assistance to build their capacity for domestic use only. Add to this, assistance to develop whalewatching as a tourist industry to aid overall economic development, and the motivation for whaling could well reduce significantly¹¹².

The cultural and historic issues are somewhat more difficult, though it is obvious that there is a level of sympathy for aboriginal subsistence whaling even for citizens of the United States and Russia, both of which could clearly afford to supply alternative meat to the people involved. The same sympathy is grudgingly accorded to Greenlanders, partly due to the belief by NGOs in particular that there is an element of commercialism to the distribution of the catch. The Norwegian whaling operation while only slightly more commercial and slightly less cultural, but undoubtedly more humane, is nonetheless deemed unacceptable, as is the proposed Japanese “Small

¹¹² Japan, Iceland and Norway all have whalewatching industries operating from the same or close ports to their whaling operations.

type cultural whaling”. It is unlikely however that the anti-whaling NGOs could be persuaded to relax their views sufficiently to allow any extension of current subsistence whaling operations to a point where it could be accepted by pro-whalers.

From the anti-whaling point of view, it is hard to see the hard-line anti-whaling NGOs ever accepting anything other than minimal subsistence whaling, and given their obvious lobbying power with many governments, it is hard to see anti-whaling governments change, particularly now countries like Sweden, which could have accepted sustainable whaling, are now voting in a bloc with the EU, which is against any form of whaling. It seems highly unlikely, therefore, that the fundamental problems will be resolved, mainly due to the deep cultural divide.

If they cannot be resolved, does it really matter, and if so, is there another way to provide for conservation of whale stocks?

The answer to the first part of the question has been proposed by Japan in particular for some years. The suggestion has been that the two sides should “agree to disagree” on cultural issues, and each treat the other sides’ beliefs with respect. This suggestion finds no favour with most anti-whaling NGOs, but the *Hogarth Initiative* has seen a significant improvement in the tone of the proceedings in IWC meetings, and has seen improved progress in cooperation on other aspects of IWC business, even though there has been no progress in resolving the fundamental issues dividing the two sides. As an example, the Australian initiative for improved scientific cooperation has received bipartisan support which would have been unlikely in 2007.

If cordiality can be maintained, it is likely that further progress can be made in addressing two far greater threats to whale stocks than whaling; marine pollution and climate change. This process will be evolutionary, however there is a possibility a

similar result could be achieved through a revolutionary process which is described in the next section.

If there is another way, how can it be introduced, and how will it succeed?

Japan's frustration with the reform process within the IWC in the *Hogarth Initiative* could have resulted in the adoption of the *Safety Net* after the failure to achieve a consensus on reform at the IWC meeting in Agadir, and again with the failure of the *Proposed Consensus Decision* at the Jersey meeting. The possibilities for whale conservation following setting up a new convention under the *Safety Net* were discussed and would most likely have resulted in one very conservation focused convention for the anti-whalers, and another focused on sustainable harvesting for the pro-whalers.

The conservation focused convention could then have spent all its energy on the important conservation issues of pollution and climate change, much as described in the evolutionary model proposed above.

There remains a possibility that Japan might still invoke the *Safety Net*; if it loses the case Australia has brought against it in the International Court of Justice. As it is best understood without knowing any details of the Australian case, a loss for Japan would totally undermine the credibility of the argument for its scientific whaling program under the special permit clause of the ICRW. In that instance, Japan could decide that its interests would be better served outside the IWC umbrella. Conversely, if Australia should lose the case, it is likely that scientific whaling under special permit would be validated, with the possibility that it could be used by other countries as well. This would be a major blow to the anti-whaling cause, and would

precipitate an urgent review of the anti-whaling strategy by governments and NGOs alike.

It would be ironic if, after five years of intensive work by the IWC, with no real reforms achieved other than an improvement in working relations between members, the situation within the Commission were to be radically changed as a result of the decision of the ICJ, in a case between two of its members, but otherwise outside the auspices of the IWC.

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Appendix A

Chronology of Events mentioned in the thesis

Date	Event	Location	Reference
June 1994	IWC 46	Mexico	RMP Accepted
October 1997	IWC 49	Monaco	Irish Proposal Introduced
July 2004	IWC 56	Sorrento	Chair's Proposal Introduced
February 2006	Intersessional Meeting	London	RMS Working Group reaches a stalemate
June 2006	IWC 58	St Kitts and Nevis	St Kitts and Nevis Declaration Hogarth elected Chairman
December 2006	Meeting of Latin American Members	Buenos Aires	Buenos Aires Declaration
February 2007	Normalization Meeting	Tokyo	
April 2007	Pew Symposium	New York	Symposium on the State of Conservation of Whales
May 2007	IWC 57	Anchorage	Hogarth Reform Initiative launched Steering Group appointed
October 2007	Steering Group Meeting	Washington	Process Oriented Approach adopted
January 2008	Second Pew Symposium	Tokyo	
March 2008	Intersessional Meeting	Heathrow	Calestous Juma appointed Special Adviser
June 2008	IWC 60	Santiago	IWC in the Future launched SWG and ICG formed
March 2009	Intersessional Meeting	Rome	
June 2009	IWC 61	Madeira	SWG extended to IWC 62 Chair's SG formed
March 2010	SWG Meeting	Florida	Proposed Consensus Decision
June 2010	IWC 62	Agadir	Consensus Decision rejected

